IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 19559-M of 2006

DATE OF DECISION : 13.02.2007

Baldev Krishan Chopra

.... PETITIONER

Versus

State of Punjab and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. M.K. Sajjan, Advocate,
for the petitioner.

Mr. N.S. Gill, AAG, Punjab.

Mr. Mrigank Sharma & Ms. Shagun Kathuria, Advocates,
for respondent No.3.

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Petitioner Baldev Krishan Chopra has filed this petition under Section 482 of the Code of Criminal Procedure for issuing direction to the State of Punjab and Director General of Police, respondents No.1 and 2 herein, for initiating proceedings under Section 182 of the Indian Penal Code (hereinafter referred to as `IPC') against respondent No.3.

2. The petitioner in this case is elected Sarpanch of Gram Panchayat, Village Gillan Wala, Tehsil and District Ferozepur. During his tenure, Gram Panchayat leased out certain land of the Panchayat to the residents of the village by public auction. Respondent No.3 Milkha Singh alias Mulka Singh, who is a resident of village, had also taken some piece of land on lease. It is his case that he made certain payment of the lease amount to the Sarpanch, but the same was not recorded in the Panchayat account and the amount was mis-appropriated. In that regard, he made a written complaint to the Chief Minister, Punjab, on 21.3.2005. It is the case

of the petitioner that the said complaint was enquired into by Superintendent of Police (D) Faridkot. During the enquiry, allegations levelled by respondent No.3 were found to be false. It is the further case of the petitioner that the DSP (D) Faridkot also recommended for initiation of proceedings under Section 182 IPC against respondent No.3. When no action was taken against respondent No.3, petitioner filed the instant petition for issuing direction to respondents No.1 and 2 for initiating proceedings under Section 182 IPC against respondent No.3.

3. I have heard counsel for the parties.

4. Counsel for respondent No.3 has submitted that respondent No.3 made a complaint to the Chief Minister of the State about some irregularities committed by the Sarpanch of the village. In case, on enquiry, those allegations were found to be false, decision to initiate or not to initiate proceedings under Section 182 IPC is to be taken by the authority/public servant before whom the complaint was made or by public servant to whom he is administratively subordinate. Counsel for respondent submits that such decision is to be taken by the said authority after taking into consideration the various factors and since in this case, a complaint was made by a resident of the village to the Chief Minister of the State about some irregularities committed by the Sarpanch of the village, the office of Chief Minister is to decide whether to initiate proceedings against respondent No.3 under Section 182 IPC, when the allegations were found to be false. Counsel contends that in such cases, the court should not issue direction to the competent authority to initiate the proceedings against the resident of a village for initiating proceedings under Section 182 IPC for making complaint to the Chief Minister of the State against Sarpanch of the village. While referring to decisions of this Court in ***Sardari Lal*** v. ***State of Punjab and another,*** 1992 (2) RCR (Criminal) 13 and ***Baldev Singh*** v. ***State of Haryana,*** 2006 (1) RCR (Criminal) 147, counsel for respondent No.3 submits that when a complaint is made to the Chief Minister or the Prime Minister and if the allegations made in the same are found to be false, then

the subordinate police officials can not file the complaint for initiating proceedings under Section 182 IPC.

5. On the other hand, counsel for the petitioner submits that since the allegations in the complaint made to the Chief Minister against the petitioner were found to be false by the DSP (D), Faridkot and he also recommended initiation of proceedings under Section 182 IPC, a direction should be issued to the competent authority to initiate proceedings under Section 182 IPC.

6. After hearing counsel for the parties and keeping in view facts and circumstances of the case, I do not find any ground to issue the aforesaid direction. In case, a complaint made by a resident of the State to the Chief Minister is found to be false, then decision to initiate proceedings under Section 182 IPC is to be taken by the public servant before whom the complaint was made or by any public servant to whom he is subordinate. Section 195 of the Code of Criminal Procedure provides that no complaint under section 182 IPC can be entertained except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. In my view, generally, the complaints are being made against Sarpanch, Panch and other elected representatives or the employees of the State Government, to the Chief Minister. It is for the office of the Chief Minister to take a decision regarding initiation of proceedings under Section 182 IPC for making false complaints. In my opinion, in exercise of the inherent powers under Section 482 Cr.P.C., no particular direction can be issued to a public servant to initiate proceedings under Section 182 IPC, when allegations in a complaint made to him are found to be false. The aggrieved person, against whom the allegations were levelled and were found to be false, has alternative remedy under the law for initiating criminal and civil proceedings for defamation, but as far as decision to initiate proceedings under Section 182 IPC is concerned, the same is to be taken by the said authority. Thus, in view of the facts and circumstances, when a villager made complaint against Sarpanch to the

Chief Minister and when the allegations were found to be false, I do not find the instant case an exceptional case where the inherent powers of this court under Section 482 Cr.P.C. should be exercised for issuing the aforesaid direction.

7. Dismissed.

February 13, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**